

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:07-cr-00338-W**

**TOMEKA L. GAILLARD,**

**Plaintiff,**

**vs.**

**MICHAEL J. ASTRUE,  
Commissioner of Social Security,**

**Defendant.**

**ORDER**

THIS MATTER is before the Court on Defendant's Motion to Dismiss for Lack of Prosecution (Doc. No. 11) and on Plaintiff's failure to respond to the Court's Show Cause Order (Doc. No. 10).

In an Order dated September 18, 2008, the Court directed Plaintiff to show cause on or before September 29, 2008, why this action should not be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute this action. Plaintiff was specifically warned that failure to make a timely response to the Show Cause Order would result in dismissal of this lawsuit. Plaintiff filed no response to the Court's Order, nor has Plaintiff otherwise appeared in this matter since the filings of her initial pleadings over a year ago. For these reasons, in addition to the reasons set forth in Defendant's Motion, the Court hereby DISMISSES Plaintiff's Complaint pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss for Lack of Prosecution (Doc. No. 11) is GRANTED. Plaintiff's Complaint is DISMISSED, and the Clerk is DIRECTED to CLOSE THE CASE. The Clerk's office is DIRECTED to send a copy of this order to Plaintiff Tomeka L. Gaillard, 7128-H Wallace Road, Charlotte, NC 28212, which is her address of record.

IT IS SO ORDERED.

Signed: October 28, 2008



Frank D. Whitney  
United States District Judge

